

EXHIBIT 1

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
MASTER DOCKET 18-MD-2865 (LAK)
CASE NO. 18-CV-09797

_____)
IN RE:)
)
CUSTOMS AND TAX ADMINISTRATION OF)
THE KINGDOM OF DENMARK)
(SKATTEFORVALTNINGEN) TAX REFUND)
SCHEME LITIGATION)
_____)

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* CONFIDENTIAL *
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REMOTE VTC VIDEOTAPED DEPOSITION UNDER ORAL
EXAMINATION OF
CHRISTIAN EKSTRAND – VOLUME I
DATE: May 6, 2021

REPORTED BY: CHARLENE FRIEDMAN, CCR, RPR, CRR

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4 (Pages 10 to 13)

<p style="text-align: right;">Page 10</p> <p>1 THE COURT REPORTER: My name is</p> <p>2 Charlene Friedman, a Certified Shorthand</p> <p>3 Reporter. This deposition is being held via</p> <p>4 videoconferencing equipment.</p> <p>5 The witness and reporter are not in</p> <p>6 the same room. The witness will be sworn in</p> <p>7 remotely pursuant to agreement of all</p> <p>8 parties. The parties stipulate that the</p> <p>9 testimony is being given as if the witness</p> <p>10 was sworn in person.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 11</p> <p>1 VIDEO OPERATOR: We are now on</p> <p>2 record. This is the remote video recorded</p> <p>3 deposition of Christian Ekstrand.</p> <p>4 Today is Thursday, May 6, 2020.</p> <p>5 The time is now 6:02 a.m. New York time.</p> <p>6 We are here in the matter of In Re</p> <p>7 Custom and Tax Administration of the Kingdom</p> <p>8 of Denmark, et al. All counsel have been</p> <p>9 noted on record.</p> <p>10 My name is Jose Rivera, remote</p> <p>11 video technician on behalf of Gregory Edwards</p> <p>12 LLC.</p> <p>13 At this time, will the reporter,</p> <p>14 Charlene Friedman, on behalf of Gregory</p> <p>15 Edwards LLC, please swear in the interpreter.</p> <p>16</p> <p>17 I N G D R G R E G E R S E N,</p> <p>18 Called as the official interpreter in</p> <p>19 this action, was duly sworn to faithfully translate</p> <p>20 the questions to the witness from English to</p> <p>21 Danish, and the answers from Danish to English.</p> <p>22</p> <p>23 C H R I S T I A N E K S T R A N D,</p> <p>24 called as a witness, having been first duly sworn</p> <p>25 according to law, testifies as follows:</p>
<p style="text-align: right;">Page 12</p> <p>1 EXAMINATION BY MR. SCHOENFELD:</p> <p>2 Q Good morning.</p> <p>3 Could you please state your name</p> <p>4 for the record?</p> <p>5 A My name is Christian Ekstrand.</p> <p>6 Q Mr. Ekstrand, do you understand</p> <p>7 English?</p> <p>8 THE INTERPRETER: Yes, he does.</p> <p>9 Q Do you speak English?</p> <p>10 A Not fluently.</p> <p>11 Q Have you given presentations</p> <p>12 concerning the facts at issue in this case in</p> <p>13 English?</p> <p>14 A Only a very few times.</p> <p>15 Q Do you understand these questions</p> <p>16 in English as I'm asking them to you?</p> <p>17 A Most of them, yes.</p> <p>18 Q Okay. Mr. Ekstrand, can you tell</p> <p>19 me everyone who's in the room with you?</p> <p>20 A Yes, I can. The two ladies -- the</p> <p>21 lawyers from Kammeradvokaten, the counsel to</p> <p>22 the Danish government, and the two gentlemen</p> <p>23 from our U.S. lawyers.</p> <p>24 And then there's a Danish</p> <p>25 representative of the other party of the</p>	<p style="text-align: right;">Page 13</p> <p>1 defendants, and then there's the interpreter</p> <p>2 and myself.</p> <p>3 Q The interpreter and yourself, is</p> <p>4 that what you said?</p> <p>5 A Yes, that's correct.</p> <p>6 Q Okay.</p> <p>7 MR. SCHOENFELD: Because of the</p> <p>8 challenges of this setup, I'm just going to</p> <p>9 ask you, Ms. Gregersen, to wait to start your</p> <p>10 translation until I've completed my question.</p> <p>11 Q And Mr. Ekstrand, I'll ask you to</p> <p>12 wait to start answering the question until</p> <p>13 Ms. Gregersen is completed, and I'll try to</p> <p>14 do the same so we don't talk over each other.</p> <p>15 MR. WEINSTEIN: Alan, before you</p> <p>16 keep going, I'm just going to ask Mr.</p> <p>17 Ekstrand to keep his voice up. Even though</p> <p>18 it's not being put into the court reporter's</p> <p>19 record, we want his voice to come through on</p> <p>20 the video -- audio. So can you just ask</p> <p>21 Mr. Ekstrand to keep his voice up?</p> <p>22 A I will do.</p> <p>23 MR. BINDER: Excuse me. This is</p> <p>24 Neil Binder. I'm sorry. Before we begin,</p> <p>25 we're getting a significant echo, making it</p>

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24 (Pages 90 to 93)

<p style="text-align: right;">Page 90</p> <p>1 these various measures will be put in place 2 until collection can take place. 3 Q So is it fair to say that -- is it 4 fair to say that Danish companies pay taxes 5 to SKAT on a net basis? 6 A I won't reclaim my answer that I 7 just gave. They have to pay their taxes on 8 time. 9 Q So I want to understand this. 10 Is it your understanding that 11 Danish companies must pay the total amount of 12 dividend withholding tax in connection with a 13 particular issuance of dividend by a 14 particular date, regardless of what their 15 other outstanding liabilities and credits 16 are? 17 A Yes. And that would be the natural 18 process as the company will pay out 19 dividends, as they are supposed to, as a 20 gross dividend, and they will just withhold 21 the relevant amount, the relevant percentage. 22 If they are to pay out, let's say, 23 ten billion, they will pay out ten billion, 24 and then withhold whatever amount is owed to 25 the Danish -- to SKAT. It is of no</p>	<p style="text-align: right;">Page 91</p> <p>1 significance to them because they have 2 reserved the amount that they will pay out to 3 their shareholders, whether it be ten billion 4 or not. 5 And so the amount of taxes is of no 6 consequence. 7 Q Does SKAT keep records of the 8 remittance of particular amounts of dividend 9 withholding tax relative to the dividend 10 issuance date? 11 THE INTERPRETER: Can I ask you to 12 repeat that, please? 13 MR. SCHOENFELD: Sure. 14 Q Does SKAT maintain records of the 15 remittance of particular amounts of dividend 16 withholding tax relevant to the dividend 17 issuance date? 18 THE INTERPRETER: I'm not sure I 19 understand the question. 20 Q Is there somewhere in SKAT you can 21 look to confirm that a Danish company has 22 paid the full amount of dividend withholding 23 tax, and only dividend withholding tax, on a 24 particular issuance? 25 MR. WEINSTEIN: Objection to form.</p>
<p style="text-align: right;">Page 92</p> <p>1 A Yes, I would say so. Because in 2 their tax account, you can see all payments 3 that have been made. 4 So therefore, you would also be 5 able to check whatever the -- the withholding 6 tax that they made. 7 Q Is the company issuing the dividend 8 the only party responsible for withholding 9 dividend tax? 10 A When you say "responsible," what do 11 you mean by "responsible?" 12 Q Does SKAT ever receive dividend 13 withholding tax from any party other than the 14 company issuing the dividend? 15 A Not to my knowledge. And I can't 16 imagine what situation that would happen in. 17 Q You referred earlier in your 18 deposition testimony to "dividend 19 compensation," right? 20 A Yes, but you were asking about 21 CumEx in Germany. 22 Q Are you aware of dividend 23 compensation being paid with respect to any 24 Danish shares or shares of any Danish 25 corporations?</p>	<p style="text-align: right;">Page 93</p> <p>1 A No, I'm not. 2 Q You don't know one way or the other 3 whether dividend compensation is ever paid 4 with respect to shares in Danish companies? 5 MR. WEINSTEIN: Objection to form. 6 A No. 7 Q Okay. So I just want to -- I just 8 want to make sure I understand this. 9 Does SKAT receive any payments from 10 companies that are nothing other than 11 dividend withholding tax? 12 MR. WEINSTEIN: Objection to form. 13 A Are you saying whether we, as the 14 authorities, received other tax payments? 15 Q So let me direct you to 16 Exhibit 3060. 3-0-6-0. 17 (Above-mentioned document marked 18 for Identification.) 19 Q Do you have the document in front 20 of you? 21 A Yes, if this is the correct 22 document. 23 Q It's "SKAT's Responses and 24 Objections to Defendant's Second Set of 25 Interrogatories."</p>

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25 (Pages 94 to 97)

<p style="text-align: right;">Page 94</p> <p>1 Do you see that?</p> <p>2 A Yes.</p> <p>3 Q Okay. Mr. Ekstrand, have you seen</p> <p>4 this document before?</p> <p>5 A No, I have not.</p> <p>6 Q If you turn to Page 10 of the</p> <p>7 document -- I apologize.</p> <p>8 If you turn to the last page of the</p> <p>9 document, you'll see it's signed by</p> <p>10 Gry Ahlefeld-Engel.</p> <p>11 Do you see that?</p> <p>12 A Yes.</p> <p>13 Q Do you know who Mr. Ahlefeld-Engel</p> <p>14 is?</p> <p>15 A Gry is a female. So she is a</p> <p>16 director within the Danish tax agency.</p> <p>17 Q What are her responsibilities?</p> <p>18 A I am not aware of all the areas</p> <p>19 that she handles, but she does work on this</p> <p>20 case. She's responsible for this case.</p> <p>21 Q When you say she's "responsible"</p> <p>22 for this case, what does that mean?</p> <p>23 A It is part of her work portfolio.</p> <p>24 Q Okay. If you look at Page 10 of</p> <p>25 the Interrogatory response -- and you should</p>	<p style="text-align: right;">Page 95</p> <p>1 review as much of this document as you need</p> <p>2 to -- but I'm drawing your attention to --</p> <p>3 MR. WEINSTEIN: It's in English,</p> <p>4 so -- and there are very technical terms in</p> <p>5 there. So you'll need to have it translated.</p> <p>6 Q Okay. Well, I'm drawing your</p> <p>7 attention to the statement on Page 10 that</p> <p>8 says, "Subject to and without waiving any</p> <p>9 objections, SKAT responds by stating that</p> <p>10 company taxes are paid on a balance principle</p> <p>11 in which a company's tax liabilities to SKAT</p> <p>12 are an aggregate and an offset by any tax</p> <p>13 credits/refunds due from SKAT to that</p> <p>14 company, and the company pays the final</p> <p>15 balance to SKAT."</p> <p>16 Then it says, "SKAT's collection of</p> <p>17 dividend withholding tax will consequently</p> <p>18 depend on other taxes due from any</p> <p>19 credits/refunds due to the dividend-issuing</p> <p>20 company, and therefore it's not separately</p> <p>21 accounted."</p> <p>22 MR. SCHOENFELD: So I'm going to</p> <p>23 pause for a second and allow Kirsten to</p> <p>24 translate for Mr. Ekstrand.</p> <p>25 Q Mr. Ekstrand, is this consistent</p>
<p style="text-align: right;">Page 96</p> <p>1 with your understanding that dividend</p> <p>2 withholding tax paid by Danish companies is</p> <p>3 not separately accounted for within SKAT?</p> <p>4 A So, my understanding, and I may</p> <p>5 very well have misunderstood that, but my</p> <p>6 understanding is that in the company's tax</p> <p>7 account, you will be able to see any</p> <p>8 outstanding amounts. And that is how I -- it</p> <p>9 is based on this understanding that I made or</p> <p>10 I gave my answers earlier.</p> <p>11 Q So let's use an example, just to</p> <p>12 make sure we understand this.</p> <p>13 Let's say that --</p> <p>14 THE INTERPRETER: Give me one</p> <p>15 second.</p> <p>16 MR. SCHOENFELD: Sure.</p> <p>17 THE INTERPRETER: Yes. Sorry.</p> <p>18 Q So we're going to use an example.</p> <p>19 Suppose that TDC owes SKAT dividend</p> <p>20 withholding tax of 50 million kroner and</p> <p>21 other taxes of 50 million kroner.</p> <p>22 Do you have that in mind?</p> <p>23 A Yes.</p> <p>24 Q And so TDC has a total tax</p> <p>25 liability of 100,000,000 kroner in this</p>	<p style="text-align: right;">Page 97</p> <p>1 example, right?</p> <p>2 A Correct.</p> <p>3 Q So now suppose the TDC is owed</p> <p>4 90 million kroner in tax credits or</p> <p>5 repayments by SKAT. Okay?</p> <p>6 A Yes.</p> <p>7 Q Okay. So in that example, TDC</p> <p>8 would make a payment of only 10 million</p> <p>9 kroner to SKAT, right?</p> <p>10 A Yes. But it is still my belief</p> <p>11 that if the two amounts of 50 million and 50</p> <p>12 million, if they're not made in time, then</p> <p>13 you cannot do this whole</p> <p>14 calculation -- sorry, correction -- that</p> <p>15 these two amounts are due at the same time.</p> <p>16 Q Is your understanding -- well, let</p> <p>17 me ask this differently.</p> <p>18 Do you have any reason to disagree</p> <p>19 with the Interrogatory response that we just</p> <p>20 read?</p> <p>21 A No, but I think that we are</p> <p>22 basically saying the same thing.</p> <p>23 Q Explain for me how your testimony</p> <p>24 is consistent with the statement in the</p> <p>25 Interrogatory, "dividend withholding tax is</p>

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26 (Pages 98 to 101)

<p style="text-align: right;">Page 98</p> <p>1 paid on a balance principle and not 2 separately accounted." 3 MR. WEINSTEIN: Objection to form. 4 A Yes, I will try. 5 So the company had one tax account, 6 which is what I said earlier. So once there 7 is an amount outstanding and there is a 8 payment deadline, this will be recorded in 9 your account as an amount due. 10 So if you do not pay the amount, 11 then the amount remains in the account. And 12 then -- so then, again, with the example of 13 the 50 million, there are -- you have the 14 50 million that is withholding tax, 15 50 million, something other taxes, and 16 100 million in total -- these amounts will 17 afford you, in succession, and that 18 was -- stand up in your account, then 19 obviously, if there are any credits or 20 whatever due, then that will be -- offset 21 this amount and then you will have to pay the 22 remaining amount. 23 But if you had no other taxes to 24 pay other than your withholding, this tax 25 would be in your account and then due. So in</p>	<p style="text-align: right;">Page 99</p> <p>1 my mind, my thinking is the same as well as 2 stated in the text that we read out loud. 3 Q So let's say that on January 1st, 4 you've got 50 million kroner in tax credits 5 in your account, and 50 million kroner in 6 dividend withholding taxes is due to SKAT on 7 January 10th. 8 Do you have that in mind? 9 A Just to -- just to check, are you 10 saying that 50 million outstanding plus 11 50 million withholding tax, or both amounts 12 due, or did you say 50 million tax credit and 13 50 million withholding tax? 14 Q 50 million tax credit in the 15 account on the day that 50 million in 16 withholding tax is due to be paid to SKAT. 17 A So they even each other out, and 18 then, of course, you do not have to pay 19 50 million. 20 Q Right. So on the date that the 21 company is obligated to remit the withholding 22 tax to SKAT, it doesn't actually pay any 23 money to SKAT, correct? 24 MR. WEINSTEIN: Objection to form. 25 A These are amounts that fall due, so</p>
<p style="text-align: right;">Page 100</p> <p>1 they are obligated to pay the 50 million. So 2 in itself, it didn't change anything. 3 Q The company in this example has 4 still paid its withholding tax, right? 5 A Yes, because they have a tax credit 6 of 50 million and they have to pay 7 withholding tax of 50 million. 8 So those amounts even out each 9 other, and so then the account is zero. 10 Q And so is it fair to say, as a 11 result of this netting process, SKAT doesn't 12 have any direct evidence that the company has 13 remitted withholding tax to the agency? 14 MR. WEINSTEIN: Objection to form. 15 A I'm not sure I understand the 16 reasoning, because they have the tax credit 17 of 50 million. Then they have to pay 18 resulting taxes of 50 million. 19 So the money is still paid. 20 Q But there's no evidence 21 of -- there's no -- nothing SKAT can point to 22 to show the actual payment of the withholding 23 tax, right? It's just obligations and 24 liabilities netted in the account? 25 MR. WEINSTEIN: Objection to form.</p>	<p style="text-align: right;">Page 101</p> <p>1 A So I still don't understand the 2 reasoning behind your argument, because there 3 may not be something specific you can point 4 to, but they had to pay withholding tax of 5 50 million. 6 Then they had a tax credit that is 7 offset against the payment. So they still 8 make their payment. 9 Q But there won't be a bank receipt 10 or a SWIFT confirm for the payment of the 11 withholding tax, correct? 12 A No, because there was no bank 13 transfer. 14 Q Okay. 15 MR. SCHOENFELD: Do you want to 16 take a short break now? 17 MR. WEINSTEIN: Sure. 18 VIDEO OPERATOR: Please stand by. 19 The time is 10:24 a.m. New York time, and 20 we're going off the record. 21 (Brief recess taken.) 22 VIDEO OPERATOR: The time is 23 10:40 a.m. New York time and we're back on 24 record. 25 Q Mr. Ekstrand, what's the name of</p>

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41 (Pages 158 to 161)

<p style="text-align: right;">Page 158</p> <p>1 for you to repeat the question and maybe 2 break it down a little bit for me. 3 MR. SCHOENFELD: Sure. Well, let 4 me repeat it back to you slowly and see if we 5 can do it that way. 6 Q Could an account holding 7 institution net trades in the same stock by 8 merging those trades into fewer -- 9 THE INTERPRETER: Go on, please. 10 Q So can an account holding 11 institution net trades in the same stock, 12 merge those trades into fewer trades for 13 reporting to a central clearing counterparty? 14 MR. WEINSTEIN: Objection to form 15 and same objections as made. 16 Can you hear us? 17 MR. SCHOENFELD: We can hear you 18 but can't see you. Why don't we go off the 19 record while you're figuring this out. 20 VIDEO OPERATOR: Stand by. The 21 time is 1:44 p.m. New York time, and we're 22 going off the record. 23 (Brief recess taken.) 24 VIDEO OPERATOR: The time is 25 1:49 p.m. New York time. We're back on the</p>	<p style="text-align: right;">Page 159</p> <p>1 record. 2 Q Mr. Ekstrand, I don't think the 3 court reporter got your answer to the last 4 question. 5 A The answer was "I have no idea." 6 Q Okay. Mr. Ekstrand, are you 7 familiar with the decision to cancel reclaims 8 that were filed with SKAT? 9 A Yes. 10 Q Were you involved in the process to 11 cancel the reclaims at issue in this case? 12 A Yes. 13 Q What role did you play? 14 A So I was the -- I had the project 15 responsibility for the staff in -- the staff 16 who undertook the letter writing at the 17 period. So I was the one in charge of 18 the -- what we referred to as the dividend 19 withholding tax case. 20 I was in charge of what we refer to 21 as the dividend withhold tax case. I was in 22 charge of the people carrying out the 23 verification of this. 24 They reported to me at this time as 25 regards the professional aspect, not the</p>
<p style="text-align: right;">Page 160</p> <p>1 management aspect. 2 Q What is the difference between the 3 professional aspect and the management 4 aspect? 5 A So I did not have any management 6 responsibility. I could not tell them to do 7 this, that, or the other. 8 But the professional responsibility 9 for this was with me. 10 Q Who did have management 11 responsibility over the personnel responsible 12 for implementing the decision to cancel the 13 reclaims? 14 A So my supervisor, as previously 15 mentioned, Lill Drost. 16 Q And so what, exactly, was Lill 17 Drost's role in the process for revoking the 18 prior approval of the reclaims? 19 A So she was in charge of the 20 management aspect for this and for the 21 decisions that were made. Since they are in 22 excess of 10 million, she also had to sign 23 the letters. 24 Q Do you recall when the decision was 25 first made to revoke any of the reclaims at</p>	<p style="text-align: right;">Page 161</p> <p>1 issue in this case? 2 A I don't remember specifically. 3 Q Do you remember roughly what year? 4 A So there was a process first where 5 we reviewed the applications that we had 6 received, but where we had yet to pay out any 7 refunds. And in that process we uncovered 8 that many of these applications were not 9 actually entitled to receive a refund. 10 Then we began the process of 11 revoking previous positions that we had made 12 because there were many repetitions. 13 So I think that we were around 14 2017, but this is guesswork. It would be 15 stated in the letters. 16 Q Were applications identified for 17 review for potential revocation? 18 A Are we talking about applications 19 or applicants? 20 Q So I want to understand the 21 process. 22 At some point, you become aware of 23 a -- allegations of fraud, correct? 24 A Yes. 25 Q And do you then determine that</p>

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43 (Pages 166 to 169)

<p style="text-align: right;">Page 166</p> <p>1 for Identification.)</p> <p>2 Q Do you have the document in front</p> <p>3 of you?</p> <p>4 A Yes.</p> <p>5 Q Okay. Do you recognize this</p> <p>6 document?</p> <p>7 A Yes.</p> <p>8 Q What is it?</p> <p>9 A So this is a decision made in our</p> <p>10 unit about a recall of previous decisions on</p> <p>11 withholding tax refunds.</p> <p>12 Q Can you describe the process that</p> <p>13 SKAT undertook to reach the decision to issue</p> <p>14 this determination?</p> <p>15 A So this is a decision made about</p> <p>16 recall and cancellation of previous</p> <p>17 decisions. In connection with review of</p> <p>18 requests that had yet to be paid out, we</p> <p>19 contacted all pension plans asking them about</p> <p>20 the documentation of ownership.</p> <p>21 We also contacted the U.S.</p> <p>22 authorities to get more information about</p> <p>23 the -- these pension plans, about the</p> <p>24 ownership.</p> <p>25 So we then determined that we had</p>	<p style="text-align: right;">Page 167</p> <p>1 documentation that in these cases where we</p> <p>2 rejected the application, that they did not</p> <p>3 have ownership of the shares that were the</p> <p>4 focus of their application, and there were</p> <p>5 several repetitions within this group of</p> <p>6 people being denied who were also -- there</p> <p>7 were several repetitions within this group of</p> <p>8 companies that were being denied who had</p> <p>9 already had application approved and paid out</p> <p>10 previously.</p> <p>11 Thus we decided to review decisions</p> <p>12 that had already led to refunds. That means</p> <p>13 that we contacted the American RS. We got</p> <p>14 information about the various pension plans,</p> <p>15 about their capital foundation, whether they</p> <p>16 had filed tax returns, et cetera.</p> <p>17 And on the basis of this, we -- we</p> <p>18 reopened our case review of these</p> <p>19 applications and we contacted the -- the</p> <p>20 pension plans in question. We wrote to them</p> <p>21 that we were planning to cancel the refunds</p> <p>22 and that we would be requesting repayment of</p> <p>23 the refunds.</p> <p>24 So the process is that you write</p> <p>25 them, right, to say "this is what we are</p>
<p style="text-align: right;">Page 168</p> <p>1 planning to do," and then give them the</p> <p>2 opportunity to make objections. And they can</p> <p>3 then, maybe, whatever they want to do, submit</p> <p>4 further documentation stating that they</p> <p>5 have -- that this is what they're demanding.</p> <p>6 But if we did not receive any</p> <p>7 documentation or anything, then we would then</p> <p>8 be able to approve. And then we would go</p> <p>9 ahead and make a decision on recalling the</p> <p>10 refund.</p> <p>11 Q Anything else?</p> <p>12 A So, by and large, that is the</p> <p>13 process.</p> <p>14 Q On Page 10 of this letter, the</p> <p>15 second paragraph from the bottom, the</p> <p>16 paragraph starting -- I'll read it in</p> <p>17 English.</p> <p>18 Do you see that paragraph,</p> <p>19 Mr. Ekstrand, the second from the bottom?</p> <p>20 A Yes.</p> <p>21 Q How did SKAT come to the decision</p> <p>22 that the plan here did not own -- "does not</p> <p>23 own and did not own the shares mentioned in</p> <p>24 the claim forms and did not receive dividends</p> <p>25 on the shares mentioned on the claim forms?"</p>	<p style="text-align: right;">Page 169</p> <p>1 A This was based on our investigation</p> <p>2 into this matter. And this is a -- the</p> <p>3 pension plan in question here was newly</p> <p>4 established, meaning that they have very</p> <p>5 limited funds, which is why we find it</p> <p>6 unlikely that they thought -- that the</p> <p>7 establishment would be able to invest</p> <p>8 hundreds of millions in Danish shares.</p> <p>9 We cannot see that the dividends</p> <p>10 that they say to have obtained have been</p> <p>11 transferred to their pension plan. So,</p> <p>12 therefore, we see them as not being the</p> <p>13 beneficial owners of the securities that</p> <p>14 formed the basis of their application.</p> <p>15 Q When you say "we can't see" -- so</p> <p>16 let me start with the first of these.</p> <p>17 How would you determine that they</p> <p>18 had limited funds?</p> <p>19 A We had been informed that this</p> <p>20 pension plan was newly established. This is</p> <p>21 what is referred to as a "one participant</p> <p>22 pension plan" and we --</p> <p>23 THE INTERPRETER: Just one second,</p> <p>24 please.</p> <p>25 A So a "one participant pension</p>

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44 (Pages 170 to 173)

<p style="text-align: right;">Page 170</p> <p>1 plan," and, therefore, with a limited capital 2 payment of \$12,500 up until \$53,000, 3 depending on how old you are. 4 So if you're talking about a newly 5 established pension plan and that you only 6 have \$12,500 to work with, we find it highly 7 unlikely that you would be able to invest. 8 We announced that, I stated, in 9 Section 1.3 in this decision. 10 Q You also rely on the fact that the 11 plan didn't submit a Form 5500 to the IRS, 12 correct? 13 A What we had been informed was that 14 you need to file a tax return if you have 15 more than 250,000 U.S. dollars in your 16 pension plan. 17 Q Who informed you of that? 18 A This is information that we got 19 from the IRS. 20 Q And based on your conversations 21 with the IRS, what was your understanding of 22 who was required to file a Form 5500? 23 A The pension plans had to file the 24 Form 5500. 25 Q And the basis for your</p>	<p style="text-align: right;">Page 171</p> <p>1 understanding of that requirement is 2 discussions with the IRS. 3 Is that right? 4 A Yes. 5 Q And did you specifically ask the 6 IRS to produce the Form 5500 at the pension 7 plan? 8 A So, as far as I remember, we have a 9 standard request with the -- with the IRS 10 about the pension plans, about the time 11 that -- the day that they were established, 12 whether they have submitted any kind of tax 13 return. 14 Q Did you ask for any tax information 15 as associated with the employer associated 16 with the pension plan? 17 A We did not know. 18 Q Did you ask for any information 19 regarding the plan administrator associated 20 with the pension plan? 21 A No. 22 Q You also said that -- you also said 23 that you reached a determination that the 24 dividends had not been paid to these pension 25 plans, correct?</p>
<p style="text-align: right;">Page 172</p> <p>1 A What I said was that we weren't 2 able to determine that dividends had been 3 paid to these pension plans, and this was not 4 stated anywhere. 5 Q What process did you undertake to 6 determine whether dividends had been paid to 7 any of the pension plans? 8 A So, first of all, we looked again 9 to the IRS to find -- to uncover whether 10 there was any kind of income information for 11 these pension plans. Then, of course, we 12 weren't able to locate their custodian 13 anywhere. 14 So there are various explanations 15 to this. The pension plans did not explain 16 where the custodian could be found in this 17 connection. 18 Q What do you mean, that there are 19 "various explanations" to the pension plans? 20 A So our main argument is that we do 21 not believe that they owned the shares 22 because they do not have the necessary 23 capital. There is no tax returns stating 24 where income or capital would have come from. 25 So then we investigated to see if</p>	<p style="text-align: right;">Page 173</p> <p>1 we could find a custodian. Then, we -- next, 2 we tried to find a custodian of Solo Capital. 3 And there may be good reasons that 4 they had their custodian registered with an 5 omnibus account. 6 THE INTERPRETER: Hold on one 7 second. So I -- the last part of my answer 8 was -- the last part I translated was 9 incorrect. So here goes the correct version. 10 A We tried to determine whether there 11 was a custodian account. We weren't able to 12 find that, and there may be an explanation as 13 it could be in an omnibus account. 14 So we have not seen any 15 documentation showing that there is a 16 custodian account, which would include quite 17 a significant amount of shares as a -- or 18 related to a significant amount of shares, as 19 a number of pension plans was -- were went 20 through at this time with a substantial 21 amount of Danish shares. 22 Q Is that referenced anywhere in the 23 cancellation order? 24 A If you look at 1.4, it says that 25 they were looking for and were unable to</p>


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30 (Pages 296 to 299)

<p style="text-align: right;">Page 296</p> <p>1 dividend withholding tax refunds requested by 2 U.S. pension plans, correct? 3 A Well, not only to the American 4 pension plan. The stock was for everyone. 5 Q But you understand that some of the 6 transactions underlying those requests were 7 executed through Solo Capital Partners, 8 right? 9 A Yes, we know Solo from this case. 10 Q Are you aware that some of the 11 pension plans executed trades through 12 ED&F Man Capital Markets? 13 A Yes. 14 Q Are you familiar with the 15 transactions that the pension plans executed 16 through ED&F Man Capital Markets that were 17 the subject of withholding tax reclaims? 18 A So you say "aware." What I can say 19 is that I've seen ED&F Man in several of the 20 cases. 21 Q My question is: Do you have 22 familiarity with the transactions that the 23 pension plans executed through ED&F Man 24 Capital Markets? 25 MR. WEINSTEIN: Objection to the</p>	<p style="text-align: right;">Page 297</p> <p>1 form. 2 A We have received some transcripts 3 from ED&F Man as custodian. 4 Q I'm going to refer to the pension 5 plans that executed trades through ED&F Man 6 as the "ED&F Man pension plans," okay? 7 A Yes. 8 Q Are you familiar with the term 9 "Annex E" as it relates to the transactions 10 concerning the ED&F Man pension plans? 11 A Which Annex E are you referring to? 12 Q Are you familiar with any documents 13 known as "Annex E?" 14 A I can't say, really, because 15 Annex E is a fairly standard designation for 16 an annex. 17 So to what are you referring? 18 Q I'm referring to a document that 19 was Annex E to the amended defense that 20 ED&F Man filed in the English proceedings. 21 A Well, I don't think so. 22 Q Okay. Thank you. 23 MR. BINDER: I have no further 24 questions. 25 MR. WEINSTEIN: Are there any other</p>
<p style="text-align: right;">Page 298</p> <p>1 questions from any defense counsel? Okay. 2 Let's take a five-minute break and 3 we'll come back and see if we have any 4 follow-up questions. 5 VIDEO OPERATOR: Stand by. The 6 time is 11:09 a.m. New York time and we're 7 going off the record. 8 (Brief recess taken.) 9 VIDEO OPERATOR: The time is 10 11:18 a.m. New York time and we're back on 11 record. 12 EXAMINATION BY MR. WEINSTEIN: 13 Q Mr. Ekstrand, are you a lawyer? 14 A No. 15 Q Are you an expert in the securities 16 industry? 17 A No. 18 Q Are you an expert in Danish law? 19 A No. 20 Q Can you turn to Exhibit 3077? 21 This was the revocation letter sent 22 to the Michelle Investments Plan. 23 Is that right? 24 A Correct. 25 Q Can you turn to the last page with</p>	<p style="text-align: right;">Page 299</p> <p>1 the signatures? 2 A Yes. 3 Q In connection with the 4 investigation leading to the revocations, did 5 Mr. Christiansen report to you? 6 A Yes, in relation to this 7 transaction. 8 Q Would he report his factual 9 findings to you as part of his work? 10 MR. SCHOENFELD: I'm sorry. 11 Objection. 12 A He did, yes. 13 Q Lill Drost was who signed the 14 letter? 15 A Correct. 16 Q Was Ms. Drost personally involved 17 in the process of gathering facts that were 18 relied upon in the revocation letter? 19 A She was not, no. 20 Q Why did Ms. Drost sign the letter? 21 A She was our unit head. She was our 22 unit head. Therefore, it was necessary for 23 her to sign our decision. 24 Q Did it require someone at her level 25 in SKAT to sign off on the revocation?</p>

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31 (Pages 300 to 303)

<p style="text-align: right;">Page 300</p> <p>1 A Yes, it was.</p> <p>2 Q Okay. You can put that aside.</p> <p>3 You testified about a meeting that</p> <p>4 you attended on 6th of August, 2015 with</p> <p>5 Dorthe Pannerup and others.</p> <p>6 A Correct.</p> <p>7 Q At that meeting, there was</p> <p>8 discussion about stopping refund payments.</p> <p>9 Is that right?</p> <p>10 A Correct.</p> <p>11 Q You mentioned that it was not the</p> <p>12 ultimate decision whether SKAT could stop</p> <p>13 payments.</p> <p>14 Is that right?</p> <p>15 A Correct.</p> <p>16 Q Did SKAT stop making refund</p> <p>17 payments after that meeting?</p> <p>18 A They did, yes.</p> <p>19 Q Did it stop the payments the same</p> <p>20 day as the meeting took place?</p> <p>21 A Yes.</p> <p>22 Q I want to ask you to turn to</p> <p>23 Page 291 of the 30(b)(6) document bundle that</p> <p>24 you have.</p> <p>25 You were asked earlier today about</p>	<p style="text-align: right;">Page 301</p> <p>1 a working group that was set up after the</p> <p>2 SIR 2010 report was issued.</p> <p>3 A Yes.</p> <p>4 Q Is this memo at Page 291 a memo of</p> <p>5 the working group dated June 8th of 2011?</p> <p>6 A Correct.</p> <p>7 Q It discusses the work of the</p> <p>8 working group?</p> <p>9 A Correct.</p> <p>10 Q I'm going to have you turn now to</p> <p>11 Exhibit 3009. This is the ER2013 report we</p> <p>12 looked at earlier today.</p> <p>13 A Yes.</p> <p>14 Q If you turn to Section 3.8, does</p> <p>15 that section identify action steps that SKAT</p> <p>16 took in response to the SIR 2002 audit</p> <p>17 report?</p> <p>18 A Yes.</p> <p>19 MR. WEINSTEIN: We have no further</p> <p>20 questions, Mr. Ekstrand.</p> <p>21 MR. SCHOENFELD: Nothing further</p> <p>22 here.</p> <p>23 VIDEO OPERATOR: Please stand by.</p> <p>24 The time is 11:27 a.m. New York time and</p> <p>25 we're going off the record.</p>
<p style="text-align: right;">Page 302</p> <p>1 (Whereupon, the deposition was</p> <p>2 concluded at 11:27 a.m.)</p> <p>3 (Witness was excused.)</p> <p>4 THE COURT REPORTER: Just recapping</p> <p>5 orders, Hughes Hubbard, two realtime hookups,</p> <p>6 rough draft, two-day final.</p> <p>7 Hanamirian, standard delivery copy.</p> <p>8 Kostelanetz, standard delivery</p> <p>9 copy, plus one realtime hookup.</p> <p>10 K&L Gates, rough draft, standard</p> <p>11 delivery copy, plus one realtime hookup.</p> <p>12 Wilmer Hale, five realtime hookups,</p> <p>13 rough draft, standard delivery copy.</p> <p>14 Binder & Schwartz, one realtime</p> <p>15 hookup, rough draft, standard delivery copy.</p> <p>16 Dewey Pegno, rough draft, standard</p> <p>17 delivery copy.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 303</p> <p style="text-align: center;">C E R T I F I C A T E</p> <p>1 I, CHARLENE FRIEDMAN, a Certified Court</p> <p>2 Reporter and Notary Public, qualified in and for</p> <p>3 the State of New Jersey do hereby certify that</p> <p>4 prior to the commencement of the examination</p> <p>5 CHRISTIAN EKSTRAND was duly sworn by me to testify</p> <p>6 to the truth the whole truth and nothing but the</p> <p>7 truth.</p> <p>8</p> <p>9 I DO FURTHER CERTIFY that the foregoing</p> <p>10 is a true and accurate transcript of the testimony</p> <p>11 as taken stenographically by and before me at the</p> <p>12 time, place and on the date hereinbefore set forth.</p> <p>13 I DO FURTHER certify that I am neither a</p> <p>14 relative of nor employee nor attorney nor counsel</p> <p>15 for any of the parties to this action, and that I</p> <p>16 am neither a relative nor employee of such attorney</p> <p>17 or counsel, and that I am not financially</p> <p>18 interested in the action.</p> <p>19</p> <p>20 </p> <p>21</p> <p>22 CHARLENE FRIEDMAN, RPR, CRR, CCR of the</p> <p>23 State of New Jersey</p> <p>24 License No: 30X100204900</p> <p>25 Date: May 7, 2021</p>